**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO. 571 OF 2003**

Himmatlal Kantilal .. Petitioner

vs

Municipal Corporation of Gr. Bombay .. Respondent

..

Mr.N.H.Seervai with Mr.B.B.Saraf i/b Prakash & Co

for Petitioner

Mr.N.V.Walawalkar for Respondent

..

**CORAM : F.I.REBELLO, J**

**DATE: 7TH OCTOBER, 2004.**

ORAL ORDER :

After hearing the parties, the ends of justice will be met if the following order is passed :

1. The impugned order dated 7th January 2003

(Exhibit PP) passed by the 3rd Respondent is set aside/withdrawn.

2. The Assistant Commissioner (Estates) is directed to dispose of the petitioner's aplication dated 20th July, 2002 (Exhibit Y) pending before him for issuance of his no objection certificate for the approval of the amended plans within four weeks from the date of comunication of this order to him and communicate his order to the petitioner.

3. In the event of the Assistant Commissioner (Estates) granting his no objection certificate, the petitioner shall submit the same with the 1st Respondent within 2 weeks from the date of receipt of the same. However, in the event of the Assistant Commissioner (Estates) refusing to grant his no objection certificate then he shall do so by giving a reasoned order and communicate the order to the petitioner. Upon the receipt of the order the petitioner shall be at liberty to approach this Hon'ble Court within the period of 4 weeks from the date of communication of such order for an appropriate reliefs and pending the expiry of 4 weeks from the date of communication of the order as aforesaid there shall be an interim order in terms of prayer clause (c) (i) of the petition.

4. In the event of the Assistant Commissioner (Estates) granting and the petitioner submitting the no objection certificate with the 1st respondent as aforesaid, the 1st respondent is directed to consider the amended plans already submitted by the petitioner for approval with them as expeditiously as possible. Respondent no. 1 is directed to enlist his objections if any, to the approval of the plans and give the petitioner and his architect an opportunity to meet them including a personal hearing.

5. In the event of the 1st Respondent approving the said amended plans, the petitioner shall carry out and complete the construction of the 4th floor of the said building as per the said amended plans so sanctioned/approved by the 1st respondent. However, in the event of the 1st respondent refusing to approve the amended plans, the then the 1st respondent shall do so by giving a reasoned order and communicate the order to the petitioner. Upon the receipt of the order, the petitioner shall be at liberty to approach this Hon'ble court within 4 weeks from the date of communication of such order, for an appropriate reliefs and pending the expiry of 4 weeks from the communication of the order as

aforesaid there shall bean interim order in terms of prayer clause (e) (i) of the petition.

6. The applications made by the petitioners should be treated as application for regularisation of the entire fourth floor and not only the roof of the fourth floor. All plans and diagrams and representations submitted by the petitioners from June 2002 to be considered.

7. The petition is disposed off in the above terms.

8. No order as to costs.

F.I.REBELLO, J